THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.11738 of 1995

Dated:06.07.2006

Between:

S.Chenna Reddy, and another.

…Petitioners

and

The Revenue Divisional officer, Chevella Mandal, at Domalguda, Hyderabad, and others.

…Respondents

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ORDER:

The two petitioners and respondent Nos.5 to 7 are brothers. Respondent Nos.3 and 4 approached the Mandal Revenue Officer for necessary changes in the revenue records and mutation in their favour in respect of the agricultural lands in Survey Nos.395, 396 and 236 admeasuring Acs.13.00 and another extent of Acs.11.03 guntas in various other survey numbers situated at Poddatoor Village of Shankerpally Mandal, Ranga Reddy District. The Mandal Revenue Officer by proceedings dated 14.03.1992 ordered necessary changes and mutation in favour of respondent Nos.3 and 4. Aggrieved by the same, the petitioners herein preferred an appeal before the first respondent. Respondent Nos.3 and 4 contended before the first respondent that they purchased the property from respondent No.5, which was duly recognized and confirmed by the Mandal Revenue Officer on 28.10.1994. Taking this into consideration, the first respondent dismissed the appeals of the petitioners by order dated 22.04.1995 which is assailed in the writ petition.

It is the case of the petitioners that the fifth respondent was Kartha of the joint family consisting of the petitioners and respondent Nos.5 to 7 after the death of their father, Narayana Reddy. They allege that the fifth respondent incurred avyavaharika debts without the knowledge or consent of the petitioners, and in discharge of the said debts relinquished the rights of the properties in favour of respondent Nos.3 and 4. It is also stated that the sons of the fifth respondent filed a partition suit, being O.S.No.17 of 1994, on the file of the Court of the Subordinate Judge, Vikarabad, Ranga Reddy District, against respondent Nos.3 to 7, which was pending at the time of filing the writ petition. Therefore, they contend that when the suit was pending, the Revenue Divisional Officer could not have passed orders dismissing the appeal.

A perusal of the impugned order would show that respondent Nos.3 and 4 purchased the property from the fifth respondent. The same was confirmed by the Mandal Revenue Officer and recording authority in File No.B/3906/94, dated 28.10.1994. This is a crucial aspect when an appeal is considered by the first respondent under Section 5(5) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act'). If a person approaches the recording authority for mutation of his/her name after acquiring rights under a sale, there is nothing wrong for the recording authority or the appellate authority to order mutation in favour of the purchasers. If any grievance has to be redressed at the instance of the seller of the land, the authorities under the Act cannot decide the questions. Indeed, there is already a suit filed by the sons of the fifth respondent for partition and these questions can be gone into. Insofar the impugned order is concerned, the same is unassailable.

The Writ Petition is therefore dismissed. No costs.

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(V.V.S.RAO, J)

06.07.2006
vs